



DEPARTMENT OF THE NAVY
BASE REALIGNMENT AND CLOSURE
PROGRAM MANAGEMENT OFFICE WEST
33000 NIXIE WAY, BLDG 50 Suite 207
SAN DIEGO, CA 92147

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Ser BPMOW.rdc/304
September 24, 2019

Ms. Aria Bendix
Business Insider
One Liberty Plaza, 8th Floor
New York, NY 10006

Dear Ms. Bendix:

This letter responds to your Freedom of Information Act (FOIA) request of January 29, 2019 in which you seek the following:

- 2014 to 2018 email communications between the U.S. Navy and Lennar Corporation that discuss radioactive contamination on site 12 at the Treasure Island and Yerba Buena Island development project in San Francisco. The correspondence may include the following names: Kofi Bonner, Co-Chief Operating Officer at FivePoint; Robert (Bob) Beck, Treasure Island Director, Kimberly Noble, Radiological Affairs Support Office, U.S. Department of the Navy; and David Clark, Remediation Project Manager, U.S. Department of the Navy.

Your request was received by this office on February 6, 2019 and assigned file number DON-Navy-2019-003302. A partial group of responsive records was provided to you on March 5, 2019 in the form of a link to the Administrative Record for the former Naval Station Treasure Island that includes documents available to the public that form the basis of the selection of environmental response actions. This letter provides the final determination to your request and located records.

During our search, we examined the files maintained by our office and NAVFAC Administrative Record as responsive to your request. Twenty six (26) email messages and 117 attachments are being provided with this determination. Of those, one (1) email message and fifteen (15) attachments are partially exempt from disclosure under Exemption 6 of the FOIA (5 U.S.C. § 552(b)(6)) since they contain information that, if disclosed, would invade an individual's personal privacy. These portions of documents have been redacted and the remainder of the documents are released to you.

In addition, twenty (20) records were determined to be wholly exempt under Exemption 5 of the FOIA (5 U.S.C. § 552(b)(5)) because they qualify to be withheld under the deliberative process privilege, which protects the decision-making process of government agencies. This privilege protects materials that are both predecisional and deliberative and includes, among other things, draft documents and proposals. The materials that have been withheld under the deliberative process privilege of Exemption 5 as both predecisional and deliberative.

The releasable portions of the documents you seek are available for examination and are uploaded with this letter to FOIA Online.

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The FOIA establishes three categories of requestors for purposes of assessing fees associated with a FOIA request, as follows: (1) commercial, (2) non-commercial scientific or educational institutions or news media and (3) all others. In this instance, we have determined that your organization falls within the second category and the fees associated with the processing of your request are waived.

In view of the above, you may consider this to be an adverse determination that may be appealed. Since you have created an account in FOIA online, you may submit an appeal directly within the web-based system. To do this, you would log in to your account, retrieve your original request, and then click on the "Create Appeal" tab in the left-hand column. The basic information from your request will be duplicated for you, and then you can type in the basis of your appeal. If you prefer to use regular mail, you may submit an appeal to:

The Department of the Navy
Office of the General Counsel (ATTN: FOIA APPEALS)
1000 Navy Pentagon, Room 5A532
Washington, DC 20350-1000

Your appeal, if any, must be transmitted (if appealing by FOIA ONLINE) or postmarked (if appealing by mail) within 90 calendar days from the date of this letter. Please be advised that a FOIA requestor has the burden of proving timely submission of an appeal. Additionally, you must include in your appeal a statement indicating why you believe your appeal should be granted, and you are encouraged to also include a copy of your initial request and a copy of this letter.

For any further assistance regarding any aspect of your request, you have the right to contact the Department of the Navy FOIA Public Liaison, Mr. Christopher Julka, at Christopher.A.Julka@navy.mil or (703) 697-0031. Additionally, you have the right to contact the Office of Government Information Services (OGIS) to inquire about the FOIA mediation services they offer. The contact information for OGIS is: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road-OGIS, College Park, Maryland 20740-01, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

Any questions concerning this matter should be directed to Ms. Sarah Ann Moore who may be contacted at sarah.moore@navy.mil or 619-524-5727.

Sincerely,



KIMBERLY A. OSTROWSKI
Director